

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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BILL DRAFT 2011-RBxz-3A [v.7] (12/01)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)

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Short Title: IRC Update.

(Public)

Sponsors: .

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO UPDATE THE REFERENCE TO THE INTERNAL REVENUE CODE.
3 The General Assembly of North Carolina enacts:

4 **SECTION 1.** G.S. 105-228.90(b)(1b) reads as rewritten:

5 "(1b) Code. – The Internal Revenue Code as enacted as of ~~May 1, 2010~~, January 1,
6 2011, including any provisions enacted as of that date that become effective
7 either before or after that date."

8 **SECTION 2.(a)** G.S. 105-130.5(a) is amended by adding a new subdivision to
9 read:

10 "(15b) For taxable years 2010 through 2012, eighty-five percent (85%) of the
11 amount allowed as a special accelerated depreciation deduction under
12 section 168(k) or 168(n) of the Code for property placed in service during
13 the taxable year. In addition, for taxable year 2010, a taxpayer who placed
14 property in service during the 2009 taxable year and whose North Carolina
15 taxable income for the 2009 taxable year reflected a special accelerated
16 depreciation deduction allowed for the property under section 168(k) of the
17 Code must add eighty-five percent (85%) of the amount of the special
18 accelerated depreciation deduction. These adjustments do not result in a
19 difference in basis of the affected assets for State and federal income tax
20 purposes."

21 **SECTION 2.(b)** G.S. 105-130.5(b) is amended by adding a new subdivision to
22 read:

23 "(21b) An amount equal to twenty percent (20%) of the amount added to federal
24 taxable income as accelerated depreciation under subdivision (a)(15b) of this
25 section. For the amount added to taxable income in the 2010 taxable year,
26 the deduction allowed by this subdivision applies to the first five taxable
27 years beginning on or after January 1, 2011. For the amount added to taxable
28 income in the 2011 taxable year, the deduction allowed by this subdivision
29 applies to the first five taxable years beginning on or after January 1, 2012.
30 For the amount added to taxable income in the 2012 taxable year, the
31 deduction allowed by this subdivision applies to the first five taxable years
32 beginning on or after January 1, 2013."



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1 **SECTION 2.(c)** G.S. 105-134.6(c) is amended by adding a new subdivision to

2 read:

3 "(8b) For taxable years 2010 through 2012, eighty-five percent (85%) of the
4 amount allowed as a special accelerated depreciation deduction under
5 section 168(k) or 168(n) of the Code for property placed in service during
6 the taxable year. In addition, for taxable year 2010, a taxpayer who placed
7 property in service during the 2009 taxable year and whose North Carolina
8 taxable income for the 2009 taxable year reflected a special accelerated
9 depreciation deduction allowed for the property under section 168(k) of the
10 Code must add eighty-five percent (85%) of the amount of the special
11 accelerated depreciation deduction. These adjustments do not result in a
12 difference in basis of the affected assets for State and federal income tax
13 purposes."

14 **SECTION 2.(d)** G.S. 105-134.6(b) is amended by adding a new subdivision to

15 read:

16 "(17b) An amount equal to twenty percent (20%) of the amount added to federal
17 taxable income as accelerated depreciation under subdivision (c)(8b) of this
18 section. For the amount added to taxable income in the 2010 taxable year,
19 the deduction allowed by this subdivision applies to the first five taxable
20 years beginning on or after January 1, 2011. For the amount added to taxable
21 income in the 2011 taxable year, the deduction allowed by this subdivision
22 applies to the first five taxable years beginning on or after January 1, 2012.
23 For the amount added to taxable income in the 2012 taxable year, the
24 deduction allowed by this subdivision applies to the first five taxable years
25 beginning on or after January 1, 2013. "

26 **SECTION 3.(a)** G.S. 105-130.5(a) is amended by adding a new subdivision to

27 read:

28 "(23) For taxable years 2010 and 2011, eighty-five percent (85%) of the amount
29 by which the taxpayer's expense deduction under section 179 of the Code for
30 property placed in service in taxable year 2010 or 2011 exceeds the amount
31 that would have been allowed for the respective taxable year under section
32 179 of the Code as of May 1, 2010. These adjustments do not result in a
33 difference in basis of the affected assets for State and federal income tax
34 purposes."

35 **SECTION 3.(b)** G.S. 105-130.5(b) is amended by adding a new subdivision to

36 read:

37 "(26) An amount equal to twenty percent (20%) of the amount added to federal
38 taxable income under subdivision (a)(23) of this section. For the amount
39 added to taxable income in the 2010 taxable year, the deduction allowed by
40 this subdivision applies to the first five taxable years beginning on or after
41 January 1, 2011. For the amount added to taxable income in the 2011 taxable
42 year, the deduction allowed by this subdivision applies to the first five
43 taxable years beginning on or after January 1, 2012."

44 **SECTION 3.(c)** G.S. 105-134.6(c) is amended by adding a new subdivision to

45 read:

46 "(15) For taxable years 2010 and 2011, eighty-five percent (85%) of the amount
47 by which the taxpayer's expense deduction under section 179 of the Code for
48 property placed in service in taxable year 2010 or 2011 exceeds the amount
49 that would have been allowed for the respective taxable year under section
50 179 of the Code as of May 1, 2010. These adjustments do not result in a

difference in basis of the affected assets for State and federal income tax purposes."

SECTION 3.(d) G.S. 105-134.6(b) is amended by adding a new subdivision to read:

"(21) An amount equal to twenty percent (20%) of the amount added to federal taxable income under subdivision (c)(15) of this section. For the amount added to taxable income in the 2010 taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2011. For the amount added to taxable income in the 2011 taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2012."

SECTION 4. Article 1A of Chapter 105 of the General Statutes is amended by adding a new section to read:

"§ 105-32.2A. Election to receive stepped-up basis for 2010.

A personal representative of an estate of a decedent dying in calendar year 2010 for which the federal estate tax is paid may elect to conform the North Carolina basis of the property in the estate to that of the federal stepped-up basis obtained by payment of the federal estate tax by filing an election with the Secretary and paying the amount of tax that would have been payable under this Article had the federal estate tax that was paid been in effect when the decedent died. In the absence of this election and payment, the North Carolina basis of the property differs from the federal basis. To make the election, an executor must file a return with the Secretary within the time allowed for filing the federal estate tax return. "

SECTION 5. This act is effective when it becomes law. Notwithstanding Section 1 of this act, any amendments to the Internal Revenue Code enacted after May 1, 2010, that increase North Carolina taxable income for the 2010 taxable year become effective for taxable years beginning on or after January 1, 2011.